

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, SEPTEMBER 19, 2007**

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of September 19, 2007, was called to order by Mayor Johnson at 6:30 p.m.

Present: Council Members – Hansen, Hitchcock, Katzakian [excluding C-2(a)], Mounce, and Mayor Johnson

Absent: Council Members – None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

C-2 ANNOUNCEMENT OF CLOSED SESSION

a) Actual Litigation: Government Code §54956.9(a); One Case; Hartford Accident and Indemnity Company, et al. v. City of Lodi, et al., Superior Court, County of San Francisco, Case No. 323658

b) Actual Litigation: Government Code §54956.9(a); One Case; Richard Romero, a Minor, By and Through His Guardian as Litem, Susie Romero v. City of Lodi, San Joaquin County Superior Court, Stockton Branch, Case No. CV027014

C-3 ADJOURN TO CLOSED SESSION

At 6:30 p.m., Mayor Johnson adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 6:45 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:00 p.m., Mayor Johnson reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following actions.

In regard to Item C-2 (a), settlement discussion was had and direction was given.

Item C-2 (b) was not discussed.

A. CALL TO ORDER / ROLL CALL

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Present: Council Members – Hansen, Hitchcock, Katzakian, Mounce, and Mayor Johnson

Absent: Council Members – None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

B. INVOCATION

The invocation was given by Pastor Glen Barnes, First Baptist Church.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Girl Scout Troop 528.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 Awards – None

D-2 Proclamations – None

D-3 (a) Following introductory comments by Recreation Supervisor Tom Alexander, Mayor Johnson presented a Certificate of Recognition to representatives of the Girls Extreme 16 & Under Softball Team in acknowledgment of their accomplishments in the Babe Ruth World Series, recently held in Eagle Pass, Texas, in finishing third for the second year in a row. Individual accomplishments were as follows:

- All World Series Team Tori Shepard (who also set a new World Series strikeout record with 89, breaking the previous record of 58)
- Home Run Contest Winner Allie Mendez
- All Defensive Team Brooke Ortiz, Second Base
Jordynn Elwood, Outfield

D-3 (b) Mayor Johnson presented a Certificate of Recognition to Sarah Heberle and Girl Scout Troop 528 in celebration of the 95th Anniversary of Girl Scouts.

E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Mayor Johnson, Mounce second, unanimously approved the following items hereinafter set forth **except those otherwise noted:**

- E-1 Claims were approved in the amount of \$7,378,125.22.
- E-2 The minutes of September 4, 2007 (Shirtsleeve Session), September 5, 2007 (Regular Meeting), and September 11, 2007 (Special Joint Shirtsleeve Session w/Lodi Improvement Committee) were approved as written.
- E-3 "Approve Request for Proposals and Authorize Advertisement for Bids for Carnegie Forum Sound System Replacement Project" was **removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.**
- E-4 Approved the specifications and authorized advertisement for bids for Lane Line Striping for Various City Streets 2007.
- E-5 Adopted Resolution No. 2007-185 approving the lease amendment for 300 West Pine Street.
- E-6 Adopted Resolution No. 2007-186 approving the application for tire-derived product grant from California Integrated Waste Management Board and authorizing the City Manager to execute grant agreements.
- E-7 Adopted Resolution No. 2007-187 approving renewal of revised maintenance of State Highway 12 agreement with the State of California Department of Transportation for fiscal year 2007-08 in the amount of \$11,408 and authorizing the City Manager to execute subsequent agreements.
- E-8 Adopted Resolution No. 2007-188 authorizing the City Manager to file a revised claim for the 2006-07 Transportation Development Act (TDA) funds in the amount of \$3,536,183 from the Local Transportation Fund (LTF) and \$38,244 from State Transit Assistance (STA) and adopted Resolution No. 2007-189 authorizing the City Manager to file a claim for the 2007-08 TDA funds in the amount of \$3,281,562 from the LTF and \$11,206 from STA.
- E-9 "Adopt Resolution Appropriating Funds and Authorizing the City Manager to Enter into a Contract with Rad Bartlam to Provide General Plan Project Management Services (Total Cost \$78,400 for Two Years)" was **removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.**

- E-10 Set public hearing for October 3, 2007, for Lodi Memorial Hospital regarding issuance of tax-exempt obligations and approval of the California Statewide Community Development Authority's issuance of indebtedness to construct a new Lodi Memorial Hospital project.
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ACTION ON ITEMS REMOVED FROM THE CONSENT CALENDAR

- E-3 "Approve Request for Proposals and Authorize Advertisement for Bids for Carnegie Forum Sound System Replacement Project"

This item was pulled by Mayor Johnson for further discussion.

Mayor Johnson expressed his concerns regarding audio quality for televised and rebroadcast City Council meetings.

Mayor Pro Tempore Mounce suggested staff review remote Council meeting participation abilities.

City Manager King stated the proposed action is to solicit bids, the condition of the sound system is generally poor which was pointed out during a recent upgrade of other equipment, the anticipated cost is approximately \$30,000, and the contractor can likely add certain specific improvements that the City Council desires as individual components of the proposal.

In response to Council Member Hitchcock, Deputy City Manager Krueger stated the funds will likely come from the equipment replacement account.

MOTION / VOTE:

The City Council, on motion of Mayor Johnson, Mounce second, unanimously approved the request for proposals and authorized advertisement for bids for Carnegie Forum Sound System Replacement Project.

- E-9 "Adopt Resolution Appropriating Funds and Authorizing the City Manager to Enter into a Contract with Rad Bartlam to Provide General Plan Project Management Services (Total Cost \$78,400 for Two Years)"

City Manager King pulled this item for further discussion.

City Manager King provided an overview of the proposed agreement for consultant services pertaining to the management of the General Plan process. Specific topics of discussion included, but were not limited to, General Plan expense, the desire to complete the General Plan on time and under budget, expanding timeline of consultants, community outreach concerns, stakeholder surveys and interviews, the necessity for General Plan amendments every 10 to 15 years, alternatives, costs associated with various alternatives, additional staffing possibilities, timing, similar services being provided to other agencies, and staff's recommendation regarding the same.

In response to Mayor Pro Tempore Mounce, Mr. King stated Mr. Bartlam will review, analyze, and provide comments to drafts in a timely manner while complying with noticing requirements and staying engaged in the process.

Council Member Hitchcock suggested that the individual monitoring the General Plan should be a City staff member. Mr. King stated he sees the project is slipping off the timeline, it is not uncommon to use a project manager, and part-time staff may be used to supplement the department so that the Director can have more time to focus on this project.

In response to Council Member Hansen, Mr. King stated the goal is still to finish by November 2008 and there is a better chance of accomplishing that goal with a General Plan manager.

In response to Mayor Pro Tempore Mounce, Mr. King stated that, pursuant to the termination clause in the agreement, the consultant may be terminated at any time.

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Katzakian second, adopted Resolution No. 2007-190 appropriating funds and authorizing the City Manager to enter into a contract with Rad Bartlam to provide General Plan project management services for a total cost \$78,400 for two years. The motion carried by the following vote:

Ayes: Council Members – Hansen, Katzakian, Mounce, and Mayor Johnson

Noes: Council Members – Hitchcock

Absent: Council Members – None

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Barbara Flockhart spoke on her concerns regarding various funds expended by the City Council on items including, but not limited to, wastewater treatment facility, consultants, refinancing, and redevelopment.

G. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Mayor Pro Tempore Mounce suggested staff look into the request made by Kenneth Chase and the mural on Cherokee Lane and Victor Road.
- Council Member Hansen mentioned there was graffiti near the mural, requested an update on the mobile food vendor efforts, reported on his attendance at the San Joaquin Council of Governments meeting specifically pertaining to obtaining a seat on the Rail Commission, and requested a formal presentation at a regular Council meeting of the environmental litigation when appropriate to do so.
- Mayor Johnson thanked Council Members Hitchcock and Hansen for their efforts with the environmental litigation and suggested references to mandates imposed by the State legislature be listed when items are brought forth.

H. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

- City Manager King reported on future improvements on Lodi Avenue, a community workshop to be held on Tuesday, November 6, 2007, the status of the sound system in the Grape Bowl, refinancing efforts which will result in a savings of approximately \$1.5 million, and the cost of issuance which will be put out again for clarification purposes.

I. PUBLIC HEARINGS

- I-1 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Johnson called for the public hearing to consider adopting a resolution approving the Lodi Solar Rebate Program to become effective January 1, 2008.

City Manager King provided a brief introduction of the subject matter.

Rob Lechner, Manager of Customer Services and Programs, provided a PowerPoint presentation regarding the solar rebate program. Specific topics of discussion included state mandates through Senate Bill 1, overview of the bill, highlights of the Solar Rebate Pilot Project, fast facts about solar systems, the next steps in implementing the program, solar initiative surcharge, funding options, and recommendations regarding the same.

In response to Council Member Hansen, Mr. Lechner stated the California Energy Commission is still working on the actual effective date and discussing grandfathering options.

In response to Council Member Hansen, Mr. Lechner stated how the funds are divided is not mandated as the City Council may divide as deemed appropriate.

In response to Council Member Hansen, Electric Utility Director George Morrow confirmed that the surcharge may be divided by the same portion.

In response to Council Member Hitchcock, Mr. Morrow stated the 75% and 25% figures were based on energy sales from both commercial/industrial and residential uses and can be adjusted later if the 25% is limiting.

In response to Council Member Hitchcock, Mr. Morrow stated the 25% represents the percentage of electric utility revenue received from residential customers. Mr. Morrow stated that the pilot was successful, but he is unsure of how many residents will take advantage of the actual program.

In response to Mayor Pro Tempore Mounce, Mr. Lechner stated currently nine residential customers have solar systems that they are aware of.

Hearing Opened to the Public

None.

Public Portion of Hearing Closed

MOTION / VOTE:

The City Council, on motion of Council Member Hitchcock, Mounce second, unanimously adopted Resolution No. 2007-191 approving the Lodi Solar Rebate Program to become effective January 1, 2008.

- I-2 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Johnson called for the public hearing to consider introducing an ordinance amending Chapter 13.20, "Electrical Service," by adding new Schedule CSS (California Solar Initiative Surcharge) to become effective December 1, 2007.

In response to Council Member Hansen, Electric Utility Director George Morrow stated, at the end of the 2008 year, they hope to know the cost of allocations, interest and demand, surcharge specifics, and additional information from the State.

In response to Council Member Hansen, Mr. Morrow and Rob Lechner, Manager of Customer Services and Programs, stated there are currently two commercial solar users and there may be some businesses that may use the entire \$375,000 in the first year and lock it up for the five-year period.

In response to Council Member Hitchcock, Mr. Morrow stated they cannot use the public benefit program because it is currently not being used for this purpose.

Mayor Pro Tempore Mounce suggested the Council wait to see how the first year goes and then discuss a surcharge as necessary thereafter.

City Manager King provided an overview of the reserve policy, the need to preserve funds, Leadership in Energy and Environmental Design certification and its application to solar, existing and future business interests in solar programs, and State mandates.

In response to Council Member Katzakian, Mr. Morrow stated we can come back annually and adjust as necessary, but we are required to provide \$6 million over ten years.

Discussion ensued between Council Member Hansen, Council Member Hitchcock, and Mr. Morrow regarding a pay-as-you-go process and balancing the need while planning ahead.

In response to Council Member Katzakian, Mr. Morrow confirmed that the .81 cents cannot be reduced; only increased.

In response to Mayor Johnson, Mr. Morrow confirmed that we do not need to wait annually for an adjustment as it can be done when necessary.

Further discussion ensued between Council Member Hansen, Council Member Hitchcock, and Mr. Morrow regarding the pay-as-you-go option for the first year.

Hearing Opened to the Public

- Richard Brown spoke of his concerns regarding increases and suggested the Electric Utility design a system similar to that of PG&E to eliminate Tier 4 and 5 surcharges while reviewing the other tiers and assessing the surcharges accordingly based on usage.

Public Portion of Hearing Closed

MOTION / VOTE:

The City Council, on motion of Council Member Hitchcock, Johnson second, introduced Ordinance No. 1802 amending Lodi Municipal Code Title 13 – Public Services – by adding Section 13.20.185, “Section CSS – California Solar Initiative Surcharge.” The motion carried by the following vote:

Ayes: Council Members – Hitchcock, Katzakian, and Mayor Johnson

Noes: Council Members – Hansen and Mounce

Absent: Council Members – None

RECESS

At 8:50 p.m., Mayor Johnson called for a recess, and the City Council meeting reconvened at 8:58 p.m.

I. PUBLIC HEARINGS (Continued)

- I-3 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Johnson called for the public hearing to consider unmet transit needs in Lodi.

Transportation Manager Tiffani Fink provided a brief presentation regarding the requirement to conduct a public hearing for unmet transportation needs and the process associated with the same.

In response to Council Member Hansen, Ms. Fink stated that the current bus brochure includes the time stops and working with GIS may provide the ability to provide more bus stop listings on future brochures.

In response to Council Member Hitchcock, Ms. Fink stated since last year no additional routes were added, the east side bus route was revised to address student needs, and they are continuing to work on the short range transit plan to address ongoing needs.

Council Member Hansen suggested staff look into the voucher program to ensure the school district is paying its share. Ms. Fink stated Measure K provides approximately 75% of the funding for the bus routes.

In response to Mayor Pro Tempore Mounce, Ms. Fink stated the E-map process mandated a shelter location at Lodi Avenue as a pedestrian amenity and they are looking at putting a bus stop at that location as well.

Hearing Opened to the Public

None.

Public Portion of Hearing Closed

MOTION / VOTE:

There was no Council action taken on this matter.

J. COMMUNICATIONS

J-1 Claims Filed Against the City of Lodi – None

J-2 The following postings/appointments were made:

- a) The City Council, on motion of Council Member Hitchcock, Johnson second, unanimously directed the City Clerk to post for the following vacancy:

Library Board of Trustees

Paula Albertson Term to expire June 30, 2009

J-3 Miscellaneous

- a) The City Council, on motion of Council Member Hitchcock, Johnson second, unanimously accepted the cumulative Monthly Protocol Account Report through August 31, 2007.

K. REGULAR CALENDAR

K-1 “Receive Presentation and Provide Comment upon the ACE Service Expansion Study Central Valley Corridor, Merced-Stockton-Sacramento Preliminary Analysis”

Stacy Mortenson and Phil Pennino provided a brief history of the efforts associated with the potential service through the Central Valley Corridor. Specific topics of discussion included smart growth principles, commuter service within the Central Valley, access to existing rail lines, map possibilities, challenges and opportunities, educational systems, advisory committee, level of commuter service, next steps, and stakeholder participation.

In response to Council Member Hansen, Ms. Mortenson stated there are approximately 250 passengers on the Central Valley Amtrak route each way per day and they are working with the Commission to address some of the challenges associated with matching up the schedule for morning commute.

City Manager King stated he would like to make it clear that the City’s expectation is that the commuter rail will go through Lodi and not to the west of the City. Mr. Pennino stated the City will be asked to take a position in the near future to assist with lobbying efforts.

MOTION/ VOTE:

There was no Council action taken on this matter.

- K-2 "Adopt Resolution Authorizing Execution of Agreement for Layoff and Sale Relating to Combustion Turbine Project Number One"

Electric Utility Director George Morrow provided an overview of the Roseville CT1 sale and specific topics of discussion included background, objectives, Phase 1 layoff, Phase 2 equity sale, compensation, and benefits and costs.

In response to Council Member Hitchcock, Mr. Morrow stated the \$2.3 million amount can change depending on the amount of capital spent and the debt service payments.

In response to Council Member Hansen, Mr. Morrow stated the debt service will be paid in three years; \$1.7 million for this year and \$2.3 million for the next two.

City Manager King stated he would like to commend Mr. Morrow on his efforts in regard to the sale.

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Mounce second, unanimously adopted Resolution No. 2007-192 authorizing execution of agreement for layoff and sale relating to Combustion Turbine Project Number One.

- K-3 "Adopt Resolution Approving the Work Plan for the Combination of the Parks and Recreation Department and Hutchins Street Square Community Center"

City Manager King provided a brief introduction of the subject matter.

Community Center Director Jim Rodems provided an overview of the schedule as listed on the matrix and reviewed the anticipated work plan associated with the same.

In response to Council Member Hitchcock, Mr. Rodems stated the timing is ambitious, but the groundwork is already laid and they need to work with the plan in conjunction with the timing associated with developing the budget for the next fiscal year.

In response to Mayor Johnson, Mr. King stated actual implementation will require additional time.

MOTION / VOTE:

The City Council, on motion of Mayor Johnson, Hansen second, unanimously adopted Resolution No. 2007-193 approving the Work Plan for the combination of the Parks and Recreation Department and Hutchins Street Square Community Center.

- K-4 "Update on the San Joaquin Local Agency Formation Commission Draft Policies and Procedures"

City Manager King provided a brief introduction of the subject matter.

Community Development Director Randy Hatch provided an overview of the status of the August 17, 2007, meeting, the letter requesting additional information, acceptance of comments, continuance of the public hearing to September 21, 2007, without additional action being taken, community separators and State law application, and a possible preservation plan.

In response to Council Member Hansen, Mr. Hatch stated the Local Agency Formation Commission (LAFCO) eventually would like to get to the policy concept of a sphere of influence for the entire general plan area for 20 years down the road.

Council Member Hansen suggested a Council Member attend the upcoming meeting.

In response to Council Member Hitchcock, Mr. Hatch stated some cities are supportive of the draft policy language because they see separators as holding back growth.

Discussion ensued between Council Member Hitchcock, Mr. Hatch, and Mr. King regarding obtaining land as a growth control measure, an example in the city of Tracy, waivers, and the intensity level of ongoing and future development.

In response to Mayor Johnson, Mr. Hatch stated the current LAFCO members are Mow, Machado, Chavez, Haskin, and Ruhstaller, along with a few alternate members.

MOTION / VOTE:

There was no Council action taken on this matter.

- K-5 “Introduce Ordinance Amending Lodi Municipal Code Title 13 – Public Services – Chapter 13.12, “Sewer Service,” by Repealing and Reenacting Section 13.12.150 Relating to Connections Outside City”

City Attorney Schwabauer provided an overview of the history associated with providing services to Flag City, stating the proposed ordinance adds an exception for publicly operated wastewater treatment districts.

In response to Council Member Hitchcock, Mr. Schwabauer stated when there is a hook up to the system, there is a payment of a wastewater impact fee and an engineering study will more precisely determine what that fee should be.

In response to Council Member Hitchcock, Mr. King stated the \$6 million figure is a working number for services excluding pretreatment.

In response to Council Member Hitchcock, Mr. King stated the \$6 million figure will partially go to funding rate stabilization.

In response to Council Member Hitchcock, Mr. Schwabauer stated that, while the ordinance itself cannot control land use application and sprawl, the practical application of the language of the ordinance makes it difficult to provide services to other areas aside from the Area 31 CSA without the construction of an additional facility at a high cost.

In response to Council Member Hitchcock, Mr. Schwabauer stated that, although there may be a perception of automatic connection, the City Council has control over whether to allow winery connections by contract in that they review every request.

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Johnson second, introduced Ordinance No. 1803 amending Lodi Municipal Code Title 13 – Public Services – Chapter 13.12, “Sewer Service,” by repealing and reenacting Section 13.12.150 relating to connections outside the City. The motion carried by the following vote:

Ayes: Council Members – Hansen, Katzakian, Mounce, and Mayor Johnson

Noes: Council Members – Hitchcock

Absent: Council Members – None

- K-6 “Approve Expenses Incurred by Outside Counsel/Consultants Relative to the Environmental Abatement Program Litigation and Various Other Cases being Handled by Outside Counsel (\$11,552.96)”

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Mounce, Johnson second, unanimously approved expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation and various other cases being handled by outside counsel in the amount of \$11,552.96, as detailed below:

Folger Levin & Kahn - Invoices Distribution

Invoice No.	Date	Description	Water Acct. Amount
7207	7/31/07	West Environmental Services (Krasnoff)	\$ 5,166.73
		GeoTrans, Inc. (Jim Mercer)	\$ 196.00
Total			\$ 5,362.73

Kronick Moskovitz Tiedemann & Girard - Invoices Distribution

Matter No.	Invoice No.	Date	Description	100351.7323
11233.026	234371	08/25/07	Lodi First v. City of Lodi	\$ 18.00
11233.027	234371	08/25/07	Citizens for Open Government	\$ 955.45
11233.029	234371	08/25/07	AT&T v. City of Lodi	\$ 646.85
Total				\$ 1,620.30

MISCELLANEOUS

Invoice No.	Date	Description	Water Acct. Amount
877001	8/27/2007	Harry A. Cannon, Inc.	\$ 1,879.83
1339870-100	8/28/2007	JAMS Mediation Services	\$ 2,690.10
Total			\$ 4,569.93

L. ORDINANCES

- L-1 Following reading of the title of Ordinance No. 1801 entitled, "An Ordinance of the Lodi City Council Amending Chapter 13.20, 'Electrical Service,' by Repealing and Reenacting Section 13.20.210, 'Schedule EM,' Relating to Mobile Home Park Service Rates," having been introduced at a regular meeting of the Lodi City Council held September 5, 2007, the City Council, on motion of Mayor Pro Tempore Mounce, Hansen second, waived reading of the ordinance in full and adopted and ordered it to print by the following vote:

Ayes: Council Members – Hansen, Hitchcock, Katzakian, Mounce, and
Mayor Johnson
Noes: Council Members – None
Absent: Council Members – None
Abstain: Council Members – None

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 10:58 p.m.

ATTEST:

Randi Johl
City Clerk